

FILED

AUG 03 2021

REAL ESTATE COMMISSION
BY *Evelyn Patten*

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

Case No. 2021-486

SHARATH CHANDRA, Administrator,
REAL ESTATE DIVISION,
DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Petitioner,

**COMPLAINT AND NOTICE OF
HEARING**

vs.

DAVID HOWIE,
(unlicensed)

Respondent.

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA (Division), by and through its counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Peter Keegan, Senior Deputy Attorney General, hereby notifies RESPONDENT DAVID HOWIE (Respondent) of the instant Complaint and Notice of Hearing. An administrative hearing will be held before the STATE OF NEVADA REAL ESTATE COMMISSION (Commission) to allow the Respondent to present his case. The hearing will be held pursuant to Chapters 233B and 645 of the Nevada Revised Statutes (NRS) as well as Chapter 645 of the Nevada Administrative Code (NAC). The purpose of the hearing is to consider the allegations stated below and to determine if the RESPONDENT should be subject to an administrative penalty or other discipline authorized by NRS 645 and/or NAC 645, if violations of law are proven.

JURISDICTION

RESPONDENT engaged in activities which require a license as a real estate broker, real estate broker-salesperson, or real estate salesperson, and/or a permit to engage in property management, issued by the Division and is therefore subject to the jurisdiction of the Division and the Commission, and provisions of NRS and NAC 645.

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PROCEDURAL HISTORY

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2 1. At all times relevant, Respondent did not hold a valid Nevada real estate
3 license.

4 2. On or about December 14, 2020, the Division received a complaint/statement
5 of fact from Jonathan Schaff, the prospective purchaser (Complainant) of the real property
6 located at 337 Barton Court, Stateline, NV 89449 (337 Barton).

7 3. The complaint alleged that Respondent engaged in unlicensed real estate
8 activities in the State of Nevada involving 337 Barton.

9 4. On April 13, 2021, the Division's investigator emailed Respondent concerning
10 the transaction for 337 Barton.

11 5. April 13, 2021, Respondent sent the Division's investigator a response
12 indicating he was not a licensed broker in Nevada.

13 6. On May 5, 2021, the Division sent Respondent an NRS 233B letter indicating
14 that the Division's investigation had obtained sufficient evidence to commence disciplinary
15 action by filing a complaint with the Commission.

FACTUAL ALLEGATIONS

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17 1. The sellers of 337 Barton signed an Exclusive Right to Sell Contract with
18 Anthony Laurian (BS. 0013406) on September 21, 2018.

19 2. The terms of the Exclusive Right to Sell Contract included a sales price for
20 the property of \$949,000.

21 3. On March 25, 2019, Respondent, a California Real Estate Broker, emailed
22 Anthony Laurian on behalf of the Complainant and submitted a Letter of Intent for the
23 Complainant to purchase 337 Barton.

24 4. Respondent's email included proof of the Complainant's funds to complete the
25 transaction, a credit report for the Complainant, and a mortgage loan pre-approval letter.

26 5. On March 26, 2019, Anthony Laurian emailed a Residential Offer and
27 Acceptance Agreement to Respondent, which was based upon the terms included in the
28 Letter of Intent.

1 6. Anthony Laurian's March 26, 2019, email to Respondent indicated that "I left
2 the DO and CTA blank for you to fill in."

3 7. On March 26, 2019, Respondent emailed Anthony Laurian and stated he
4 would need a "referral fee agreement" and he would be the Complainant's "liaison moving
5 forward."

6 8. Respondent's March 26, 2021, email to Anthony Laurian also requested
7 Anthony Laurian to complete the Duties Owed by a Nevada Real Estate Licensee and the
8 Consent to Act "forms unless that's allowed in Nevada to have an out of state broker fill
9 that out."

10 9. Respondent and Anthony Laurian signed a California Association of Realtors
11 Referral Fee Agreement dated March 27, 2019, that would pay Respondent "2.5% of the
12 final gross sales prices."

13 10. On March 27, 2019, Anthony Laurian emailed Respondent and stated "[y]ou
14 are representing" the Complainant "throughout this transaction, including inspections and
15 any and all communications with title."

16 11. On March 28, 2019, the Respondent sent the Complainant's DocuSigned copy
17 of the Offer and Acceptance for 337 Barton back to Anthony Laurian.

18 12. The Buyer's Representation section of the March 28, 2019, Residential Offer
19 and Acceptance Agreement was left blank.

20 13. On March 29, 2019, Anthony Laurian emailed Respondent the sellers' signed
21 acceptance.

22 14. On March 29, 2019, the Respondent emailed the escrow officer's assistant and
23 asked for wiring instructions to be sent to the Complainant.

24 15. Respondent's March 29, 2019, email requested a copy of the preliminary title
25 report and earnest money deposit receipt so that he could continue to assist the
26 Complainant throughout the transaction.

27 16. On April 3, 2019, Anthony Laurian emailed Respondent and Complainant the
28 sellers' Real Property Disclosure and Mold Disclosure.

1 17. On April 3, 2019, Respondent emailed the escrow officer and asked that the
2 earnest money deposit and preliminary title report be sent to the Complainant's lender.

3 18. On April 12, 2019, Respondent emailed a copy of the home inspection report
4 to Anthony Laurian.

5 19. Respondent's April 12, 2019, email also indicated that he "plan on bringing a
6 handy man to bid out the recommended repairs on the home inspection."

7 20. Respondent's April 12, 2019, email also indicated that "Rob at west coast can't
8 order the appraisal until the loan has been submitted to underwriting with the new
9 contract date. So depending on when the appraisal can be assigned we will probably need
10 more time for that."

11 21. On April 14, 2019, Anthony Laurian emailed Respondent an addendum to the
12 purchase agreement.

13 22. On April 15, 2019, Respondent sent the Complainant's DocuSigned copy of the
14 addendum back to Anthony Laurian.

15 23. On April 16, 2019, Anthony Laurian emailed Respondent the sellers' signed
16 addendum.

17 24. On April 18, 2019, Respondent emailed the pest inspection company with
18 instructions to provide a copy of the completed report to Anthony Laurian.

19 25. On April 18, 2019, Anthony Laurian emailed Respondent and stated the
20 purchase agreement timelines had not been met and the Complainant could lose his
21 deposit.

22 26. Anthony Laurian's April 18, 2019, email also stated that Respondent's actions
23 had placed his client, the Complainant, "in a precarious position."

24 27. On April 18, 2019, Anthony Laurian emailed the Complainant and stated he
25 regretted having to contact him directly, bypassing the Respondent, "but it is necessary
26 because none of the timelines of this transaction have been met[.]"

27 28. Anthony Laurian followed up his April 18, 2019, email to the Complainant
28 and advised him to "request an extension . . . to present your request for repairs."

1 29. Anthony Laurian continued to communicate directly with the Complainant on
2 April 18-19, 2019, regarding the extension and opening the house to showings.

3 30. On April 22, 2019, Respondent emailed Anthony Laurian to negotiate the cost
4 of repairs needed for 337 Barton.

5 31. On April 22, 2019, Anthony Laurian emailed Respondent and requested
6 Respondent to contribute \$1,500.00 from the referral fee to the transaction before Anthony
7 Laurian presented the property repair request to the sellers.

8 32. On April 22, 2019, Respondent emailed Anthony Laurian and stated that his
9 work "was being drastically discounted already" and he would be willing to contribute \$500
10 to the transaction."

11 33. On April 22, 2019, Anthony Laurian emailed Respondent and asked if the
12 Complainant would be willing to increase the earnest money deposit by \$10,000.00 and
13 agree to a 30-day escrow with no contingencies.

14 34. On April 22, 2019, Respondent emailed Anthony Laurian and stated he
15 believed the Complainant would agree to increase his earnest money deposit by \$10,000
16 and agree to a 30-day escrow and would likely waive an appraisal contingency but would
17 require a financing contingency.

18 35. On April 22, 2019, the Complainant, and the sellers of 337 Barton executed a
19 new Residential Offer and Acceptance Agreement which identified Respondent as the
20 buyer's agent for the Complainant.

21 36. On May 28, 2019, the Complainant emailed Respondent and Anthony Laurian
22 with terms for cancelling the transaction.

23 37. On May 29, 2019, Anthony Laurian emailed the Complainant and attempted
24 to negotiate a settlement between the sellers and the Complainant regarding the earnest
25 money deposit funds.

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1 **VIOLATIONS ALLEGED**

2 Respondent has committed the following violations of law:

3 1. Respondent violated NRS 645.230(1)(a) for acting in the capacity of a real
4 estate broker in the State of Nevada without first obtaining a broker's license from the Real
5 Estate Division.

6 **DISCIPLINE AUTHORIZED**

7 1. Pursuant to NRS 645.235, the Commission is empowered to impose an
8 administrative fine of \$5,000.00 per violation or the amount of any gain or economic benefit
9 that the Respondent derived from each violation, whichever is greater.

10 2. Pursuant to NRS 645.314, the Division is authorized to request its
11 investigative costs where the investigation was undertaken for disciplinary purposes.

12 3. Additionally, under NRS 622.400, the Commission is authorized to impose
13 costs of the proceeding upon Respondent, including investigative costs and attorney's fees,
14 if the Commission otherwise imposes discipline on Respondent.

15 4. Therefore, the Division requests that the Commission take such disciplinary
16 action as it deems appropriate under the circumstances.

17 **NOTICE OF HEARING**

18 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider this
19 Administrative Complaint against the above-named Respondent in accordance with
20 Chapters 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada
21 Administrative Code.

22 **THE HEARING WILL TAKE PLACE VIA VIDEO CONFERENCE** on
23 **September 14, 2021 commencing at 9:00 a.m., or as soon thereafter as the**
24 **Commission is able to hear the matter, and each day thereafter commencing at**
25 **9:00 a.m. through September 16, 2021 or earlier if the business of the Commission**
26 **is concluded. The Commission meeting will be held on September 14, 2021, at the**
27 **Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City,**
28 **Nevada 89706. The meeting will continue on September 15, 2021 at the Nevada**

1 Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada
2 89706, commencing at 9:00 a.m., and on September 16, 2021, should business not
3 be concluded, starting at 9:00 a.m. at the Nevada Division of Insurance, 1818 E.
4 College Parkway, Suite 103, Carson City, Nevada 89706.

5 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled
6 at the same time as part of a regular meeting of the Commission that is expected
7 to last from September 14, 2021, through September 16, 2021, or earlier if the
8 business of the Commission is concluded. Thus, your hearing may be continued
9 until later in the day or from day to day. It is your responsibility to be present
10 when your case is called. If you are not present when your hearing is called, a
11 default may be entered against you and the Commission may decide the case as
12 if all allegations in the complaint were true. If you have any questions please
13 call Evelyn Pattee, Commission Coordinator (702) 486-4074.

14 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is
15 an open meeting under Nevada's open meeting law and may be attended by the public.
16 After the evidence and arguments, the commission may conduct a closed meeting to discuss
17 your alleged misconduct or professional competence. A verbatim record will be made by a
18 certified court reporter. You are entitled to a copy of the transcript of the open and closed
19 portions of the meeting, although you must pay for the transcription.

20 As the RESPONDENT you are specifically informed that, you have the right to
21 appear and be heard in your defense, either personally or through your counsel of choice.
22 At the hearing, the Division has the burden of proving the allegations in the complaint and
23 will call witnesses and present evidence against you. You have the right to respond and to
24 present relevant evidence and argument on all issues involved. You have the right to call
25 and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any
26 matter relevant to the issues involved.

27 You have the right to request that the Commission issue subpoenas to compel
28 witnesses to testify and/or evidence to be offered on your behalf. In making the request,

1 you may be required to demonstrate the relevance of the witness' testimony and/or
2 evidence. Other important rights you have are listed in NRS 645.680 through 645.990, NRS
3 Chapter 233B, and NAC 645.810 through 645.920.

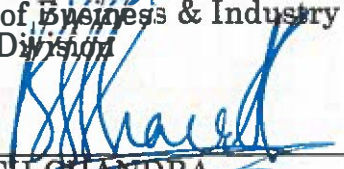
4 The purpose of the hearing is to determine if the RESPONDENT has violated NRS
5 645 and/or NAC 645 and if the allegations contained herein are substantially proven by
6 the evidence presented and to further determine what administrative penalty, if any, is to
7 be assessed against the RESPONDENT.


8 DATED this 30 day of July 2021.

DATED this 19th day of July 2021.

9 STATE OF NEVADA
10 Department of Business & Industry
Real Estate Division

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Attorney General

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